

FILED
2019 JUN 10 09:33 AM
KING COUNTY
SUPERIOR COURT CLERK
E-FILED
CASE #: 19-1-02863-3 SEA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

THE STATE OF WASHINGTON,)
)
 Plaintiff,)
 v.) No. 19-1-02863-3 SEA
)
 DION LEE EARL,) INFORMATION
)
 Defendant.)
)
)

I, Daniel T. Satterberg, Prosecuting Attorney for King County in the name and by the authority of the State of Washington, do accuse DION LEE EARL of the following crime[s]: **Rape In The Second Degree**, committed as follows:

Count 1 Rape In The Second Degree

That the defendant DION LEE EARL in King County, Washington, on or about September 27, 2009, by forcible compulsion did engage in sexual intercourse with another person, named KH;

Contrary to RCW 9A.44.050(1)(a), and against the peace and dignity of the State of Washington.

DANIEL T. SATTERBERG
Prosecuting Attorney

By:

amilgibson

Emily Petersen, WSBA #36664
Senior Deputy Prosecuting Attorney

INFORMATION - 1

Daniel T. Satterberg, Prosecuting Attorney
CRIMINAL DIVISION
W554 King County Courthouse
516 Third Avenue
Seattle, WA 98104-2385
(206) 477-3742 FAX (206) 205-6104

1
2 CAUSE NO. 19-1-02863-3 SEA

3 PROSECUTING ATTORNEY CASE SUMMARY AND REQUEST FOR BAIL AND/OR
4 CONDITIONS OF RELEASE

5 The State incorporates by reference the Certification for Determination of Probable Cause
6 prepared by Detective Mark Brown of the Kirkland Police Department for case number 2009-
7 32388.

8 The State requests that a warrant be issued bail set in the amount of \$200,000.00. The
9 State believes that the defendant will not appear for arraignment because he is currently in
10 custody in Arizona awaiting trial on charges involving the sexual assaults of two other victims.
11 In the present case the defendant raped the victim who was working at a massage parlor. The
12 defendant forced the victim to engage in sexual intercourse by holding her down. In addition, the
13 defendant told the victim that he was a cop and would have her arrested if she reported the rape.
14 The defendant's identity was confirmed by DNA after forensic examination. While this crime
15 occurred in 2009, the investigation was closed for a period of time and then reopened more
16 recently at the request of the victim.

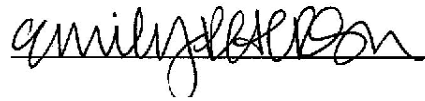
17 The State requests the defendant be ordered to have no contact with the victim in this
18 case and that a sexual assault protection order be issued to that effect.
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22 Signed and dated by me this 5th day of June, 2019.
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24

Prosecuting Attorney Case
Summary and Request for Bail
and/or Conditions of Release - 1

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Emily Petersen, WSBA #36664
Senior Deputy Prosecuting Attorney

Prosecuting Attorney Case
Summary and Request for Bail
and/or Conditions of Release - 2

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King County

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Certification for Determination of Probable Cause**

That *Mark Brown 342* is a *Detective* with the *Kirkland Police Department* and is familiar with the investigation conducted in *Kirkland Police Department 2009-32388*. There is probable cause to believe that *EARL, DION LEE, 3/13/1972* committed the crime(s) of:

- *Rape In The Second Degree (Forcible Compulsion)*, in *Kirkland*

County of King, in the State of Washington.

This belief is predicated on the following facts and circumstances:

On 10-09-2009, City of Kirkland Police Department Lieutenant (LT) R. Seibert was contacted by an attorney by the name of "Rob Rhodes" by phone. Rhodes stated that he had a client that was reporting a rape that occurred in the City of Kirkland and the suspect in the rape claimed to be a police officer. Rhodes stated that he would send his client to the department to make the report.

On this same date at 1455 hours, a female adult by the name of K.M.H. (DOB 12-10-1986), came to the police department and contacted LT. M. Ursino and LT. R. Seibert. During their contact with victim KMH, she stated that she used a studio upstairs in the office of Progressive Finishing located at 720 8th AVE in the City of Kirkland, County of King and the State of Washington. She reportedly only used this studio a couple of times. KMH stated that she is a student of in the art of Reiki and practices so she can get her license one day. She stated that she is going back to school for this.

It is noted in LT. M. Ursino's report that this particular address where victim KMH was practicing Reiki had been "raided by Seattle PD six months ago for prostitution."

MH stated that the person who lets her use the studio is known to her as "Jen." She did not want to provide the police "Jen's" last name. However, Jen is the person who made the appointment for the suspect. KMH stated that she did not know how the appointment was made. She said that Jen indicated the guy is a former "pro soccer player", by he now works for a car dealership. Jen said that she could hear the loud speaker in the background as she made the appointment.

KMH said that the suspect was supposed to be in the studio at 1700 hours for a session. She fell asleep in the room waiting for him to show up. At about 1900 hours, she heard a pounding on the door. She woke up quickly and opened the door. KMH said the male suspect barged in and began to grab her. She fended him off and looked for other people, but realized everyone had gone for the day. He then asked if he could take a shower first. She said he could. He asked if she would take one with him, but she refused and told him that no one here does anything like what he's thinking. When he was done with the shower they began a Reiki session. KMH said she was fully clothed and he had on a towel.

As the session began, the suspect grabbed her hard and said, "You listen to me, you will do exactly what I want cause I work for Seattle Police." He then grabbed her and ripped her clothes off and raped her. She did not go into detail as she became upset. KMH then said when he was done he wanted another shower and forced her to take one with him. While taking a shower he was talking with her in a low voice telling her he was there to check things out for the police and that since she was cooperative he would give a good report.

After the shower he got dressed and left. KMH sat in the room for "hours" before she did anything. She did not see what kind of vehicle the suspect was driving. She stated she may have talked with her friend Angie about the incident first. When asked about the delay in reporting she was very concerned the suspect was a police officer and it took her awhile to get up the nerve. That's the reason she went to her attorney first.

KMH described the suspect was a white male adult, 5'09" in height, stocky build with a crew cut. He was wearing dark blue workers type clothing consistent with a shop worker. KMH stated that she did not see a badge or weapon during this ordeal either before or after he got dressed.


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KMH did go to Valley General Hospital on the 28th for an exam. She stated that her clothing that she was wearing was kept in a paper box at her house and she would bring it in when she was contacted by a detective. She also stated that she was willing to complete a sketch for this case.

On 11-02-2009, Kirkland PD Detective C. Gilland was able to make contact with victim KMH at a Starbucks in Bellevue. During this contact with Detective Gilland, KMH provided her with a statement regarding how she was raped. KMH provided the following account of the rape that occurred to her to Detective Gilland.

KMH stated that this rape occurred at "Jenn's business towards the end of September." KMH stated that this occurred on 09-27-2009. She described the suspect as a male wearing a blue jacket, one that looked like he worked in a shop of some sort, and pants that looked like "Dickies." She then described the sexual assault.

KMH said the male immediately barged in and started grabbing on her, bear hug style. KMH said she was confused and kept trying to push him off, saying, "don't touch me." The male asked KMH, "What's the matter?" KMH said that she was scared and half asleep when this was happening and quickly realized there was no one around to help her. The male asked KMH for a shower. In order to get him to leave her alone, KMH said okay. The male asked KMH if she would take a shower with him. She refused. KMH gave the male a towel and he went into the shower. While the male was in the shower KMH got her phone and tried to send a text to Jenn. The text was with regards to who the male was, but she never got to send the message because the male came out of the shower too fast. KMH was able to see the time on her phone and remembers that it was around 1800 hours.

The male came out with a towel around him. KMH said that he put his clothes down and started grabbing on her again. KMH again tried to fend him off, but he was much bigger and stronger than she was. KMH told him that the appointment was over, but he continued. KMH said she has been assaulted before, so she decided it would not be smart to continue to fight with the male. The male attempted to push down on her shoulders to force her head down to his groin level. KMH took this as him wanting her to perform oral sex on him. KMH did not want to do that and resisted. The male grabbed KMH and told her that she was going to do exactly what he wanted her to do because he worked for the Seattle Police Department. He told her that some very bad things with regards to drugs and prostitution had happened at that place, and it was his job to make sure there were no drugs there. He told KMH that if she did what he said that he would give a "clean report." KMH said that the male pushed her down on a table in the room and continued to try to get her to perform oral sex on him. When she would not do that, the male took her clothes off, forced his penis inside her vagina, and had intercourse with her while holding her arms down. KMH did not try to fight the male because of the size difference, and she was afraid she would be more severely harmed. KMH estimated this assault lasted approximately 2 minutes. KMH said that the male ejaculated, and thinks that some of the ejaculate was inside of her and some was on her underwear or leg. The male kept asking her about drugs and whether or not she was "clean."

When the male was finished he forced KMH to escort him to the shower. KMH said that she stood in the small bathroom while the male showered. She did not shower with him. After his shower, the male got dressed and left. KMH said that the last thing he asked her before he walked out was, "So you're clean?" When he left, KMH said she started to cry. She collected both towels that the male had used, and the washcloth she had used to wipe herself off after the assault. KMH called Jenn and made arrangements to meet her at the Rosehill Starbucks in Kirkland. KMH said that she was fairly upset, and that when she met with Jenn, Jenn calmed her down. KMH said that Jenn said she was sorry that this happened to her. Jenn did not have any additional information on the male's identity. After talking, Jenn and KMH went their separate directions. KMH indicated that Jenn has been mean about the situation since it happened, and mentioned that Jenn is no longer in business at that location.

KMH completed the suspect sketch for this case on 11-10-2009. KMH also provided Detective Gilland a bag of items she had taken from the scene. The bag included the two towels, identified as evidentiary items EV332-003 and EV332-004, used by the suspect and the washcloth, identified as evidentiary item EV332-001, she had used to wipe herself off. There were also two pairs of ladies thong style underwear, identified as evidentiary items EV332-002 and EV332-006, and a pair of cotton athletic pants, identified as evidentiary item EV332-005. It is important to note that since the items were stuffed into a bag they smelled "mildewy", and one pair of underwear actually appeared to have mold on them. Detective Gilland submitted a request to the WSP crime lab to have the items examined for DNA. KMH also signed a medical release.


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On 02-02-2010, Detective Gilland was back in contact with KMH. KMH told Detective Gilland she thought that she had identified who the suspect might be. KMH told Detective Gilland that she had been doing research on Google and talking to friends who play soccer to try to find out who the suspect was. KMH gave Detective Gilland the name Dion Earl and told Detective Gilland to look into it. She said that she had seen some pictures of Earl on the internet and that she was sure he was the person who assaulted her. Detective Gilland stated that she would look into Dion Earl and get back to KMH. Detective Gilland used police databases to locate and identify Earl as Dion L. Earl (DOB 03/13/72). Detective Gilland ordered a Department of Licensing photo of Earl and created a photo montage that included photos of five similar looking males. It should be noted that the sketch of the suspect that was created very strongly resembled Earl.

On 02-03-2010, KMH came to the Kirkland Police Department and was presented with a Photographic Montage. KMH positively identified Earl and stated that she was "100% sure that this was the male that raped me in Kirkland on September 27th, 2009." The photographic montage was placed into Kirkland Police Department evidence, identified as evidentiary item EV332-008.

On 02-10-2010, Detective Gilland attempted to contact Earl at his address in Snohomish, Washington at 14309 46th AVE SE. She did not receive an answer so she left a business card. At 1330 hours, Detective Gilland was contacted by Earl by phone. Earl said that he knew it had something to do with him getting a massage in Kirkland. Detective Gilland told him that it sounded like they were talking about the same event and asked him about what had happened. Earl immediately became defensive and stated that he is involved with a woman and they are expecting a child together. He said that the incident in question was very embarrassing, and that he has never harmed a woman before in his life. Earl said that someone was trying to extort him and denied any wrongdoing. Detective Gilland asked him to tell her a little about what had happened at this "massage" appointment. Earl said that he called the number and an appointment was made. Earl said that while he was there he got a massage and a "hand job." Earl did not elaborate on any further sexual contact. Earl said that he was going to pay \$60, but \$150 was demanded. There was a dispute about the price that was apparently the topic of several text messages that were exchanged between Earl and the female who performed the massage or the person who arranged the appointment. Detective Gilland asked Earl to describe the female that he met with. Earl said that she was dark skinned, dark hair, and short. That description essentially described KMH. Earl advised that he would be willing to come to the Kirkland Police Department and participate in a CVSA examination. Earl was adamant that he did not sexually assault anyone, and that the female who performed the massage, most likely KMH, threatened to keep his DNA and use it against him to say he raped her.

On 02-16-2010, Detective Gilland arrived at work and found two copies of a statement that Earl apparently wrote along with a "bunch of letters of recommendation, report cards, and newspaper articles. She was made aware via a voicemail that Earl had obtained an attorney to represent him. In his statement, Earl states that he was not guilty of any wrongdoing. It said that he would not submit to a "CVSA" and he would not provide a sample of his DNA unless it is recommended by his attorney. His statement continues, saying, "on or about 09/23/10 (the date the victim says the assault occurred was 09/27/10) he went to Kirkland to get a massage at Zen Studios. He said that when he arrived he did what he usually did, and got undressed and laid down. He said that the woman gave him a long hug and asked him if he was a cop. The woman asked him to touch her in her privates to prove that he was not a cop, and he did. The woman got undressed completely and straddled him to give him a massage. Earl said that the woman said that for \$100 more he could "lick my pussy and even fuck me." Earl wrote that he had vaginal intercourse with the female and that before he ejaculated she told him that it would cost him even more. After he ejaculated Earl said that he showered, left \$60 cash for the massage and left. Earl wrote that he never saw this female again, but he did go back the next day to give "Daisy," the woman's boss, a massage. Earl says that he brought bagels on this day to all the girls as a nice gesture. Earl says he did not go back for quite some time, but called "Daisy" later and learned that the business had moved. Earl said that he assumed they had been busted for prostitution because "this is what happens most of the time with these places."

On 02-24-2010, KMH came to the Kirkland Police Department to provide further details surrounding this case. She spoke with Detective Gilland. KMH explained to me that at the beginning of 2009 she began practicing Reiki massage. She said that she worked at the same place (720 8th Ave) before it was raided by Seattle Police. KMH said that at the time of the raid she was in California. While working at this establishment she said that a massage would often end with


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a "hand job," but not all the time. KMH said that she has never engaged in sexual intercourse with any of her clients since she started practicing Reiki. KMH did admit that she had engaged in sexual intercourse for money when she was about 18 years old. When KMH returned from California she needed to make some money because her car had been wrecked. She contacted Jenn and learned that Jenn had opened a business with some girls at the same location that had been raided by the Seattle Police Department (720 8th Ave). KMH said she started working quite a bit and saw many clients. KMH admits that most of the sessions ended with a "hand job," but no one was ever forceful or violent with her. KMH said that the client would leave \$150 to \$160 on the table before they left. KMH said that \$50 of that money would go to Jenn, and she kept the rest. On 09/27/09 KMH said that she had been out the evening before and she was extremely tired. She said that she saw one client, and was so tired she fell asleep on the table at Zen Studios. KMH said that she got a phone call from Jenn that woke her up. Jenn told her about the client and that he would be there at about 5 pm. KMH said that she initially turned Jenn down to have the session, but Jenn was persistent and she agreed. KMH said that that is why she was asleep when the client finally arrived. KMH maintains her story about what happened when the suspect client arrived. She noted that it may have been smarter for her to leave while the suspect was in the shower, but she hoped that he would just calm down. KMH wishes she would have just left.

On 03-12-2010, Washington State Crime Laboratory Forensic Scientist Megan Inslee provided a report reference the evidence submitted by Detective Gilland. The Crime Lab report was identified by his Laboratory Number 109-002974. Two evidentiary items had been submitted by Detective Gilland, EV332-001, a periwinkle washcloth in a sealed paper package and EV332-002, one pair of women's thong-style underpants in a sealed envelope. In the report it states, "The women's black thong-style underpants (EV332-002) were visually examined. White and green staining, resembling mold, was observed on both the interior and exterior surfaces of the crotch area. The interior crotch area was tested for the presence of AP, with positive results. A sample from this area was removed and extracted for a microscopic evaluation during which spermatozoa were observed. This sample was subsequently extracted for DNA using a differential technique which attempts to separate sperm cell DNA from non-sperm cell DNA." The conclusions were the following. The report states, "1. No indications of semen were detected on the washcloth (EV332-001). 2. Semen was identified on the women's black thong-style clothing underpants (EV332-002). 3. The DNA typing profile obtained from the women's black thong-style underpants (EV332-002) originates from an unidentified male. If references are submitted, comparisons can be made to this profile."

On 11-09-2017, Kirkland Police Department Detective Mark Brown was assigned this case to review for further investigation. In his review, he met with the victim in this case. The victim requested that this case be forwarded to the prosecutor's office for review as she wanted to pursue the case criminally at this time in her life. The victim also signed a Medical Release of Information form reference her visit to Valley Medical Center in September 2009.

On this same day, Detective Brown did obtain the medical records regarding the victim's visit to the Valley Center Medical Center in September 28th, 2009. In the medical records, there was a handwritten statement by the victim that articulated that she was sexually assaulted by a male suspect. Also, in the medical notes it is indicated that the victim had contact with the suspect by penis to vagina and hand to vagina and that there was ejaculation stating that the sites of the ejaculation were her vagina and lower back.

During this time, Detective M. Brown had also been made aware that the suspect identified in this case had been arrested for rape by the Mesa, Arizona Police Department recently. This information was shared with Detective M. Brown by Mesa PD Detective A. Russo. Detective A. Russo told Detective M. Brown that the suspect was currently incarcerated at a county jail facility in Phoenix, Arizona on Mesa, Arizona PD Rape Cases 2017-2990640 and 2017-2550059.

On 11-22-2017, Detective M. Brown wrote a search warrant for suspect Earl's DNA via King County Superior Court. The search warrant number is 2017-1345. This signed search warrant was sent to Mesa, Arizona PD Detective A. Russo for its administration.

On 11-28-2017, the search warrant for suspect Earl's DNA had been administered by Mesa, Arizona PD Detective J. Elam.

On 12-04-2017, Detective M. Brown met with the victim at the Kirkland Police Department for a recorded follow-up

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interview. During this interview, the victim articulated that she had been raped by the suspect identified in this case.

On this same date, Detective M. Brown received the suspect buccal swabs reference Mesa, Arizona PD's administration of the suspect DNA search warrant. These swabs were submitted to the WSP Crime Laboratory for examination and comparison to previously submitted victim evidence.

Based on the above information, there is probable cause to criminally charge the suspect, identified as Dion Lee Earl (DOB 03-13-1972), with Rape in the Second Degree, R.C.W. 9A.44.050.

Under penalty of perjury under the laws of the State of Washington, I certify that the foregoing is true and correct.
Signed and dated by me this 10 day of January, 2018, at Kirkland, Washington.

This printout is from the King County Electronic Log of Detective Investigations (eLODI) system, where the above officer signed and transmitted this referral as permitted by GR 30 and LGR 30.

AGENCY: Kirkland PD	WA0170800	CASE NUMBER 2009-32388	FILE NUMBER	PCN NUMBER	SUPERFORM
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ARREST INFORMATION		
DATE & TIME OF VIOLATION 9/27/2009 7:00 PM	CRIMINAL TRAFFIC CITATION ATTACHED? <input type="checkbox"/> YES <input type="checkbox"/> NO	ACCOMPLICES
DATE OF ARREST/TIME 1/10/2018 3:43 PM	ARREST LOCATION 11750 NE 118th ST Kirkland, WA 98034	

SUSPECT INFORMATION							
NAME (LAST, FIRST, MIDDLE/JR, SR, 1st, 2nd) EARL, DION LEE		DOB 3/13/1972	ALIAS, NICKNAMES				
ARMED/DANGEROUS <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IDENTITY IN DOUBT? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	CITIZENSHIP					
PHYSICAL DETAILS							
SEX M	HEIGHT 508	WEIGHT 164	SKIN TONE	RACE U	EYE HAZ	HAIR XXX	SCARS, MARKS, TATTOOS, DEFORMITIES
IDENTIFICATION DETAILS							
CCN 1717113	PRIOR RA # 0	AFIS #	FRI #	STATE ID #	DRIVER'S LICENSE #	STATE	SSN
RESIDENCE				EMPLOYMENT / SCHOOL			
LAST KNOWN ADDRESS 27433 48 AV S KENT, WA 98032				EMPLOYER, SCHOOL (ADDRESS, SHOP/UNION NUMBER)			
RESIDENCE PHONE				BUSINESS PHONE		OCCUPATION	
EMERGENCY CONTACT							
PERSON TO BE CONTACTED IN CASE OF EMERGENCY			RELATIONSHIP	Address			PHONE

CHARGE INFORMATION			
OFFENSE <input type="checkbox"/> DV <input type="checkbox"/> FUGITIVE F - Rape in the Second Degree	RCW / ORD# 9A.44.050	COURT / CAUSE # KC Superior /	CITATION #
OFFENSE <input type="checkbox"/> DV <input type="checkbox"/> FUGITIVE	RCW / ORD#	COURT / CAUSE #	CITATION #

WARRANT / OTHER				
WARRANT DATE	WARRANT NUMBER	OFFENSE	AMOUNT OF BAIL	WARRANT TYPE
ORIGINATING POLICE AGENCY	ISSUING AGENCY	WARRANT RELEASED TO: (SERIAL # / UNIT / DATE / TIME)		

PROPERTY INFORMATION		
LIST VALUABLE ITEMS OR PROPERTY LEFT FOR ARRESTEE AT JAIL		
LIST VALUABLE ITEMS OR PROPERTY ENTERED INTO EVIDENCE (SIMPLE DESCRIPTION, IDENTIFYING MARKS, SERIAL #)		
LIST ITEMS ENTERED INTO SAFEKEEPING		
TOTAL CASH OF ARRESTEE \$0.00	WAS CASH TAKEN INTO EVIDENCE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO AMOUNT: \$0.00	SIGNATURE OF JAIL STAFF RECEIVING ITEMS / SERIAL #

OFFICER INFORMATION		
ARRESTING OFFICER / SERIAL # Brown, Mark 342	TRANSPORTING OFFICER / SERIAL #	SUPERVISOR SIGNATURE / SERIAL #
SUPERFORM COMPLETED BY (SIGNATURE/SERIAL #) Brown, Mark		CONTACT PERSON FOR ADDITIONAL INFORMATION (NAME/SERIAL#/PHONE) Brown, Mark 342 4255873512

COURT FILE		
SUPERIOR COURT FILING INFO <input type="checkbox"/> IN CUSTODY <input type="checkbox"/> AT LARGE <input type="checkbox"/> OUT ON BOND	COURT CAUSE (STAMP OR WRITE)	
COURT/JUST CT.NO.	DIST CT BOND \$	SUP CT DATE

EXTRADITE				
PERSON APPROVING EXTRADITION	SEAKING-LOCAL ONLY WACIC-STATE WIDE <input type="checkbox"/>	NCIC-WILL EXTRADITE FROM ID & OR ONLY <input type="checkbox"/>	NCIC-WILL EXTRADITE FROM OR, ID, MT, WY, CA, NV, UT, CO, AZ, NM, HI, AK <input type="checkbox"/>	NCIC-WILL EXTRADITE FROM FROM ALL 50 STATES <input type="checkbox"/>
EN T R Y	CCN _____	DOE _____	CL E A R A N C E	DOC _____
	WAC _____	TOE _____		TOC _____
	NCIC _____	OP _____		OP _____

PROBABLE CAUSE INFORMATION	
STATEMENT OF PROBABLE CAUSE: NON-VUCSA	
CONCISELY SET FORTH FACTS SHOWING PROBABLE CAUSE FOR EACH ELEMENT OF THE OFFENSE AND THAT THE SUSPECT COMMITTED THE OFFENSE. IF NOT PROVIDED, THE SUSPECT WILL BE AUTOMATICALLY RELEASED. INDICATE ANY WEAPONS INVOLVED. (DRUG CRIME CERTIFICATE BELOW)	